

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDWEST WIRELESS IOWA L.L.C.	DOCKET NO. 199 IAC 39.2(4)
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ORDER SUSPENDING PROCEEDING

(Issued March 18, 2003)

On June 13, 2002, Midwest Wireless Iowa L.L.C. (Midwest) filed with the Utilities Board (Board) an application for designation as an eligible telecommunications carrier (ETC). In that application, Midwest requested ETC designation for the existing rural and non-rural service areas it serves in their entirety.

Midwest also identified a number of existing rural service areas that it does not serve in their entirety. These service areas were identified in Midwest's Exhibit E. Midwest requested the Board redefine these service areas by classifying each wire center of the affected local exchange carriers (LECs) listed in its application as a separate service area. Essentially, Midwest requested ETC designation for the portion of each existing rural LEC study area corresponding to Midwest's wireless service area, which is established by the Federal Communications Commission (FCC) and based on county line boundaries.

On July 12, 2002, the Board issued an order granting ETC status to Midwest for only the service areas that Midwest serves in their entirety. The July 12, 2002,

order did not address Midwest's request to redefine the partial service areas listed in Midwest's Exhibit E.

On October 31, 2002, Midwest filed a petition to again address the issue of redefining the rural LEC service areas. Midwest attached an amended list of the affected rural LEC service areas as Appendix 1. In support of its request, Midwest asserts that unless the service areas of the rural LECs are redefined as requested, Midwest will be precluded from receiving the funds crucial to its ability to provide competitive service alternatives for rural consumers in those areas.

On November 26, 2002, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed a response to Midwest's petition and asked the Board to docket the petition and establish a procedural schedule. Iowa Telecom asserts that before Midwest's petition can be granted, the Board must consider the potential impact of a redefinition of a service area or "study area" on rural LECs. Iowa Telecom suggests the Board seek the guidance of the FCC in this proceeding, stating that such guidance will be beneficial to the Board due to the potential public policy and public interest considerations that must be evaluated when determining whether the service area for a rural LEC should be an area variant with its "study area."

Also on November 26, 2002, Iowa Telecommunications Association (ITA) filed a response to Midwest's petition and a petition to intervene. ITA asserts that Midwest's petition presents a question of first impression on the issue of redefining a

rural LEC service area for the purpose of universal service and support mechanisms. ITA states that it concurs with the response filed by Iowa Telecom and requests the Board docket Midwest's petition so that all appropriate issues can be addressed.

Board subrule 199 IAC 39.2(1) states that a telecommunications carrier can receive ETC designation if the carrier "offer[s] the services supported by the federal Universal Service Fund throughout the approved service area." By its nature, a wireless company may not be licensed to provide service throughout the Board-approved service area for the incumbent wireline service provider. Therefore, based on the Board's existing rules, wireless companies should be denied ETC designation when they cannot provide service to an incumbent's entire service area.

The Board's current rules regarding the designation of ETCs were created with a focus on wireline telecommunications companies. To grant ETC status to a wireline company is an easy process requiring only a certification by the company that it provides services that are supported by the universal service fund (USF) throughout the entire relevant service area. Wireless companies differ from the wireline carriers in this respect because they receive their operating licenses from the FCC and those licenses do not follow Iowa's established service areas.

Midwest's petition to redefine its service area appears to be an attempt to bridge the gap that exists between wireless and wireline companies with respect to the receipt of universal service funding. The Board believes that this gap might similarly be bridged by the implementation of a rule that would specifically allow

wireless companies to serve parts of incumbent service areas pursuant to the operating licenses issued by the FCC. The rule would also establish filing procedures and service quality requirements for wireless carriers seeking ETC status.

Therefore, the Board will suspend this proceeding pending the outcome of a rule making proceeding to provide for the certification of wireless companies as ETCs, despite their service of only parts of LEC exchanges.

IT IS THEREFORE ORDERED:

The procedure involving the petition to redefine local exchange carrier service areas filed by Midwest Wireless Iowa L.L.C. on October 31, 2002, is suspended as described in the body of this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18th day of March, 2003.